

Service Date: October 13, 1988

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application) UTILITY DIVISION
of Montana-Dakota Utilities Company) DOCKET NO. 87.1.8
to Revise the Language of Gas)
Transportation Rates 81, 82 and 97.)

DECLARATORY RULING

On August 26, 1988, the Public Service Commission (Commission) received a Petition for Declaratory Ruling from Western Gas Processors (WGP) and Holly Sugar Company (Holly) in Docket No. 87.1.8. The question put by the Petitioners is as follows:

Pending the Commission's decision in this docket, should Montana-Dakota Utilities Co. (MDU) continue, after October 17, 1988, to charge pursuant to Rate 97 for the transportation of natural gas from Western [WGP] to Holly Sugar?

It is Petitioners' position that MDU is obligated to charge pursuant to Rate 97 for transportation of natural gas from WGP to Holly as long as WGP remains a qualifying supplier and as long as Rate 97 is in effect.

The Commission issued a notice of the Petition on September 2, 1988. The deadline for submitting comments on the Petition was September 15, 1988. Timely comments were received from Montana-Dakota Utilities Co. (MDU). The Commission accepted late filed comments from the Montana Consumer Counsel (MCC).

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Western Sugar Company and Koch Hydrocarbons filed a motion to strike the Petition.

DISCUSSION AND RULING

The Commission has issued two previous declaratory rulings in this docket that relate to the application of Rate 97. See Declaratory Rulings issued on October 8, 1987 and July 26, 1988, in Docket No. 87.1.8. In response to both of the factual situations presented, the Commission responded essentially as follows: As long as MDU has a customer that qualifies for service under Rate 97, that customer should be served under Rate 97 for as long as that rate is in effect. WGP and Holly contend in this petition that Holly will remain qualified for service under Rate 97 after October 17, 1988, despite the expiration date of the present service agreement between MDU and Holly. WGP and Holly contend that WGP will remain a "qualifying supplier" after October 17, 1988, because of the terms of a service agreement between WGP and Williston Basin Interstate Pipeline Company (WBIP) concluded in August of 1983. MDU does not challenge these contentions but argues that the Commission should consider terminating Rate 97 on October 17, 1988, because "Petitioners' prayer, if granted, would establish for Holly an indefinite entitlement to Rate 97 service, absent any other Commission action." MCC argues that the Commission should terminate Rate 97 on October 17, 1988, because it may not cover incremental costs,

resulting in other MDU ratepayers being responsible for the revenue shortfall.

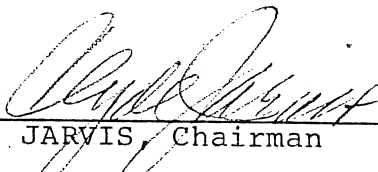
The Commission will not, in response to this petition, declare that Rate 97 terminates on October 17, 1988. The Commission rules, consistent with its previous rulings, that MDU should charge Rate 97 to those customers that qualify for Rate 97. The service agreement that MDU has with Holly that is to terminate on October 17, 1988, has no bearing on whether Holly qualifies for service under Rate 97. ~~MDU cannot, by separate agreement, disqualify a customer that otherwise qualifies under the terms of a Commission approved tariff.~~ The Commission has from the inception of Rate 97 been concerned about the economic basis for the \$.05 rate. However, the Commission has been unwilling to terminate Rate 97 until such time as a record is established which provides a basis for a different rate. Rate 97 is at issue in this docket and will be considered by the Commission in its final order.

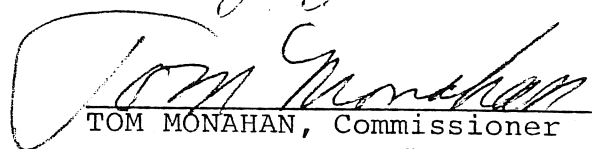
The Motion of Western Sugar and Koch Hydrocarbons to strike the Petition is denied. 1) It is the nature of declaratory rulings to address problems that may arise. 2) Whether MDU should charge Holly pursuant to Rate 97 after October 17, 1988, is not an issue in Docket No. 87.1.8. Rate discrimination and the economic basis for Rate 97 are at issue. 3) The Commission agrees that the language of Rate 97 in its present form is relatively clear and unambiguous. It is for that reason, and the

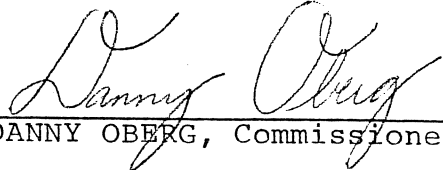
fact that Rate 97 is under review in this docket, that the Commission has no difficulty making this ruling.

Done and Dated this 11th day of October, 1988 by a vote of 3-0.

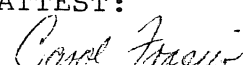
BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION


CLYDE JARVIS, Chairman


TOM MONAHAN, Commissioner


DANNY OBERG, Commissioner

ATTEST:


Carol Frasier
Commission Secretary

(SEAL)